

## **PART VI: PROCEDURE FOR ADOPTING EMERGENCY RULES**

### **Notice:**

Serve head of department, Legislative Research Council, and Rules Committee with	
(1) proposed rules;	
(2) any materials incorporated by reference (materials incorporated by reference will be returned;	
(3) statement of necessity for emergency procedure;	
(4) notice of intent to adopt emergency rules.	SDCL 1-26-5
Publish notice of intent to adopt emergency rules in at least	SDCL 1-26-5
3 newspapers of general circulation	1-26-4.1
Send notice of intent to adopt emergency rules to interested persons.	SDCL 1-26-4.1

### **Adoption:**

Make Legislative Research Council's recommended changes and any other changes necessary.	SDCL 1-26-6.5
Have rules signed by the person or a majority of the body with authority to adopt the rules.	SDCL 1-26-6(2)
File final rules with Legislative Research Council.	SDCL 1-26-6(4)
Obtain signature of Legislative Research Council approving the rules for legality, for form and style, and for sufficiency of the reasons for the passage of emergency rules.	SDCL 1-26-6(3) 1-26-6.5

### **Filing with Secretary of State:**

If three days have passed since notice of intent to adopt emergency rules was published and if all signatures have been obtained, file original certificate and copy of final rules with Secretary of State.	SDCL 1-26-6(1) 1-26-6(5)
No more than 30 days may elapse between the first service on the Legislative Research Council and filing with the Secretary of State.	SDCL 1-26-4.3

### **Effective Date:**

Rules are provisionally effective immediately upon filing with the Secretary of State.	SDCL 1-26-6 1-26-8
After 90 days rules are void.	SDCL 1-26-8(2)

## PROCEDURE FOR ADOPTING EMERGENCY RULES

### Step 1

Forms 15 to 19

Serve proposed emergency rules,  
notice, and statement of necessity  
on department secretary, Legislative  
Research Council, and Rules  
Committee

No waiting period

### Step 2

Forms 18, 20 to 22

Publish notice of intent to adopt  
and send notice to interested persons

Wait 3 days

### Step 3

Form 23

Adopt rules

No waiting period

### Step 4

Form 24

Obtain signatures of  
Legislative Research Council

No waiting period

### Step 5

Form 24

File rules and certificate  
with Secretary of State

No waiting period

Rules are immediately effective

90 days rules automatically expire

The form numbers correspond to forms on the following pages. Your agency must create all of these forms, with the exception of Form 22, affidavit of publication, which is provided by the newspaper publishing your notice.

Keep the **originals** of all of these documents in your agency files, except for the certificate, Form 24, the original of which must be filed with the Secretary of State. While it is not required by statute, the Secretary of State's office has requested that a copy of Form 23 be filed with the rules and the certificate.

A fiscal note and small business impact statement is not required with emergency rules.

The maximum time allowed from Step 1 through Step 5 is 30 days.

**FORM 15**

See SDCL 1-26-5

IN THE MATTER OF THE  
PROMULGATION OF  
EMERGENCY RULES

ADMISSION OF SERVICE

Personal service of

- (1) the Board of Metric Conversion's proposed emergency rules §§ 199:02:01:01 to 199:02:01:10, inclusive,
- (2) the notice of intent to adopt the rules,
- (3) the statement of necessity, and
- (4) all materials incorporated by reference

is admitted at Pierre, South Dakota, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Secretary  
Department of Commerce and Consumer Affairs

**FORM 16**

See SDCL 1-26-5

IN THE MATTER OF THE  
PROMULGATION OF  
EMERGENCY RULES

ADMISSION OF SERVICE

Personal service of

- (1) the Board of Metric Conversion's proposed emergency rules §§ 199:02:01:01 to 199:02:01:10, inclusive,
- (2) the notice of intent to adopt the rules,
- (3) the statement of necessity, and
- (4) all materials incorporated by reference

is admitted at Pierre, South Dakota, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Legislative Research Council

For these rules, the Agency contact person is: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**FORM 17**  
See SDCL 1-26-5

**(NOTE: A current list of the members of the Interim Rules Review Committee may be obtained from the Legislative Research Council.)**

IN THE MATTER OF THE  
PROMULGATION OF  
EMERGENCY RULES

AFFIDAVIT

I, Richard Roe, certify that on June 1, 20\_\_, I sent by U.S. mail and electronic mail a correct copy of the following documents:

- (1) a full, true, and correct copy of emergency rules §§ 199:02:01:02 to 199:02:01:10, inclusive, proposed for adoption by the Board of Metric Conversion,
- (2) a copy of the notice of intent to adopt the rules (*Form 18*), and
- (3) a statement of necessity (*Form 19*).

These documents were sent to the Interim Rules Review Committee members at their respective electronic mail addresses listed below:

State Representative Peggy Gibson  
[peggygibson@hotmail.com](mailto:peggygibson@hotmail.com)

State Senator Angie Buhl O'Donnell  
[Angie.buhl@gmail.com](mailto:Angie.buhl@gmail.com)

State Representative Anne Hajek  
[annehajek@gmail.com](mailto:annehajek@gmail.com)

State Senator Mike Vehle  
[mvehle@mit.midco.net](mailto:mvehle@mit.midco.net)

and to the following members at their respective U.S. mail addresses listed below:

The Honorable Peggy Gibson  
State Representative  
1010 Valley View Court  
Huron, SD 57350-4221

The Honorable Jean M. Hunhoff  
State Senator  
2511 Mulligan Drive  
Yankton, SD 57078

The Honorable Anne Hajek  
State Representative  
P.O. Box 1779  
Sioux Falls, SD 57101-1779

The Honorable Mike Vehle  
State Senator  
132 N. Harmon Drive  
Mitchell, SD 57301

The Honorable Timothy Johns  
State Representative  
203 W. Main St.  
Lead, SD 57754

Subscribed and sworn to before me this 1<sup>st</sup> day of June, 20\_\_.

\_\_\_\_\_  
Notary Public - South Dakota (Seal)  
My Commission expires: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Richard Doe

**FORM 18**

See SDCL 1-26-5

**BOARD OF METRIC CONVERSION**

**NOTICE OF INTENT TO ADOPT EMERGENCY RULES**

Notice is hereby given that the South Dakota Board of Metric Conversion, pursuant to the authority vested by SDCL chapters 1-26 and 36-72, intends to adopt emergency rules to implement statewide conversion to the metric system.

The effect of the rules is to establish the metric system to be used by businesses and schools throughout the state and to set the deadline for conversion.

The reason for adopting the rules is to comply with federal mandates for rapid conversion.

A copy of the proposed rules may be obtained from the

South Dakota Department of Standards  
State Capitol  
500 East Capitol  
Pierre, South Dakota 57501-1234

Published at an approximate cost of \$\_\_\_\_\_.

## **FORM 19**

See SDCL subdivision 1-26-5(3)

### **BOARD OF METRIC CONVERSION**

#### **STATEMENT OF NECESSITY FOR EMERGENCY RULE**

By enactment of Public Law Number 110-4, the 110th Congress mandated conversion by all states to the metric system by July 1, 2001, and established sanctions for not doing so. The federal rules governing the program were not published until April 15, 20\_\_\_. The federal deadline for implementation of the law and the sanctions for failing to meet the deadline were not changed.

The time required for promulgation of permanent rules will not allow the state to meet the required deadline; therefore, emergency rules are necessary to meet the federally imposed deadline and to protect the state from federal sanctions.

**FORM 20**

See SDCL 1-26-4.1

Board of Metric Conversions  
Department of Standards  
State Capitol  
500 East Capitol  
Pierre, South Dakota 57501-1234

May 1, 20\_\_

Capital Journal  
333 West Dakota Avenue  
Pierre, South Dakota 57501

To whom it may concern:

Please publish the enclosed Notice of Intent to Adopt Emergency Rules in your paper for one issue by May 4, 20\_\_.

Please include your Affidavit of Publication with your invoice.

Sincerely,

John Doe  
Supervisor

Enclosure



FORM 21

See SDCL 1-26-4.1



# Capital Journal

## AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Hughes

\_\_\_\_\_ of said county, being, first duly sworn, on oath, says: That he/she is the publisher or an employee of the publisher of the **Capital Journal**, a daily newspaper published in the City of Pierre in said County of Hughes and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated, that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within the said County of Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the legal/display advertisement headed \_\_\_\_\_

a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for \_\_\_\_\_ successive week(s) to wit:

_____ 19__	_____ 19__
_____ 19__	_____ 19__
_____ 19__	_____ 19__
_____ 19__	_____ 19__
_____ 19__	_____ 19__

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$\_\_\_\_\_.

Signed: \_\_\_\_\_

subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

\_\_\_\_\_

Notary Public in and for the County of \_\_\_\_\_ Hughes \_\_\_\_\_, South Dakota.  
My Commission expires \_\_\_\_\_, 20\_\_.

**FORM 22**

See SDCL 1-26-4.1

IN THE MATTER OF THE  
PROMULGATION OF  
EMERGENCY RULES

AFFIDAVIT OF MAILING NOTICE  
TO INTERESTED PARTIES

I, John Doe, under oath, do swear, that on May 4, 20\_\_, I mailed a copy of the notice attached to this affidavit to the list of persons attached to this affidavit. I further swear that the attached list is a true and correct list of all persons who have requested advance notice of the rule-making proceedings of the Department of Standards.

\_\_\_\_\_  
John Doe

Subscribed and sworn to  
before me this 4th day  
of May, 20\_\_.

\_\_\_\_\_  
Notary Public - South Dakota

(Seal)

My Commission expires  
\_\_\_\_\_, 20\_\_.

## FORM 23

See SDCL subdivisions 1-26-6(2) and (4)

IN THE MATTER OF THE  
PROMULGATION OF  
EMERGENCY RULES

APPROVAL OF RULES

Pursuant to notice published as provided by SDCL 1-26-5, the following rules, attached, are approved and will become effective immediately after filing with the Secretary of State:

199:02:01:01 to 199:02:01:10, inclusive

Date \_\_\_\_\_

Date \_\_\_\_\_

BOARD OF METRIC CONVERSIONS

\_\_\_\_\_  
LEGISLATIVE RESEARCH COUNCIL  
(for legality and for form and style)

\_\_\_\_\_  
Richard Roe

\_\_\_\_\_  
June Doe

\_\_\_\_\_  
Charles Coe

\_\_\_\_\_  
Mary Boe

\_\_\_\_\_  
Fred Moe

**(NOTE: This form must be signed by a majority of the members of the board or commission. Make only one original copy of this form. If you need extra signed copies, make photocopies after the original has been signed. Have as many signature lines as there are board members. On Form 22 for signature by a department secretary, the name of the department and a signature line for the department secretary are substituted for those of the board in this example.)**

**FORM 24**

See SDCL subdivision 1-26-6(6)

**(NOTE: This certificate must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules.)**

IN THE MATTER OF THE  
PROMULGATION OF  
EMERGENCY RULES

CERTIFICATE

I, Richard Roe, hereby certify that I am a duly appointed member and the duly elected chair of the Board of Metric Conversion and that the attached instruments are full, true, and correct copies of the following emergency rules adopted by the Board of Metric Conversions on May 7, 20\_\_:

199:02:01:01 to 199:02:01:10, inclusive

I further certify that SDCL chapters 1-26-5 and 1-26-6 were complied with in the adoption of these rules. These rules are effective immediately upon filing with the Secretary of State.

\_\_\_\_\_  
Richard Roe, President  
Board of Metric Conversions

Subscribed and sworn to  
before me this 7th day  
of May, 20\_\_.

\_\_\_\_\_  
Notary Public - South Dakota

(Seal)

My Commission expires  
\_\_\_\_\_, 20\_\_.